



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue
Seattle, WA 98101

Reply To Attn Of: ECO

Jay Minthorn, Chairman
Columbia River Inter-Tribal Fish Commission
729 NE Oregon Street, Suite 200
Portland, Oregon 97232

Dear Chairman Minthorn:

I am writing to you in response to your letter of September 21, 2001, concerning the efforts of the U.S. Environmental Protection Agency (EPA) to establish Total Maximum Daily Loads (TMDLs) for temperature and dissolved gas in the mainstem Columbia and Snake Rivers. This letter will provide a status report of this TMDL effort, describe EPA's role in this TMDL effort, address the concerns identified in your letter concerning monitoring and system configuration changes, and describe EPA's efforts to consult and coordinate with Columbia Basin Tribes.

Description of Total Maximum Daily Load Work Efforts

EPA Region 10 is working with the states of Idaho, Oregon, and Washington, in coordination with 14 Columbia Basin Tribes, to develop mainstem Columbia/Snake River TMDLs for dissolved gas and water temperature. These TMDLs will characterize the sources of Total Dissolved Gas and temperature loadings and allocate those loadings to meet water quality standards established under the federal Clean Water Act.

Through the end of 2002, EPA will be making water quality decisions in five related efforts to establish TMDLs for Total Dissolved Gas (TDG) and Temperature TMDLs on the Columbia/Snake River Mainstem under Clean Water Act section 303(d). EPA's roles can be broken down into three basic categories: technical analysis; issuing a federal TMDL; and approving/disapproving a state TMDL, described in the five efforts below:

- First, EPA will be taking action to approve /disapprove the Lower Columbia TDG TMDLs which will be issued by Oregon and Washington. The geographic scope is from the Pacific Ocean to the confluence with the Snake River;
- Second, EPA will be taking action to approve/disapprove the Lower Snake River Mainstem and Mid-Columbia River TDG TMDLs that will be prepared by the state of Washington;
- Third, EPA will be doing the technical analysis and issuing the TDG TMDL for Indian reservation waters in the Upper Columbia, including Lake Roosevelt;
- Fourth, at the request of the states of Oregon and Washington, EPA will be doing the technical analysis and issuing temperature TMDLs for the Columbia/Snake River Mainstem in Oregon and Washington; and
- Finally, for the portion of the Snake River Mainstem in Idaho, EPA will be doing the technical analysis for the temperature TMDL that will be issued by Idaho and submitted to EPA for approval.

More details on these five efforts can be found in the attached draft strategy document: "Strategy for Consultation and Coordination with Indian Tribal Governments for Completing Columbia River and Snake River Mainstem TMDLs."

Need for Adequate Monitoring

EPA agrees that good monitoring information is essential both to develop the TMDLs and to design and implement measures to achieve water quality standards. It is important to clarify that implementation activities are not within the scope of EPA's responsibilities in the TMDL effort. In other forums EPA has expressed continued concerns to the Federal Columbia River Power System Action Agencies (U.S. Army Corps of Engineers, Bureau of Reclamation and Bonneville Power Administration) on the need for enhanced monitoring in the mainstem Columbia and Snake River. EPA provided the attached paper to the Corps in April 2001, "An Outline of a Monitoring Program for Estimating the State of Water Temperature in the Columbia and Snake River," with specific recommendations on improving monitoring. EPA is continuing to work with these federal agencies to address the recommended improvements, and we are interested in any support CRITFC or CRITFC tribes can provide in seeing these monitoring proposals implemented.

Critical System Configuration in Federal and Federal Energy Regulatory Commission (FERC) Licensed Dams

As mentioned above, EPA does not have authority to include requirements within these TMDLs to implement system configuration changes. However, EPA's TMDL work effort will provide a critical foundation for future implementation decisions for federal and FERC dams. The temperature analysis being conducted by EPA as a part of the temperature TMDL effort will provide a temperature load allocation modeling which will form the basis for future decisions to reduce water temperature. This is a vital addition to state of the art knowledge of the temperature in the Columbia and Snake River system.

EPA will, through its other authorities and programs, continue to work with Federal and non-Federal agencies toward implementing water quality measures consistent with the Clean Water Act and the recent Biological Opinion. The major work effort for this is the development and implementation of the Water Quality Plan. The 2000 Federal Columbia River Power System (FCRPS) Biological Opinion called for the development of a systemwide Water Quality Plan for the mainstem Columbia/Snake River. The purpose of this Water Quality Plan is to move towards Clean Water Act standards attainment. The Water Quality Plan is intended to focus on the physical and operational changes to both Federal and non-Federal dams to improve water quality. It is our expectation that EPA discussions with the federal action agencies on the Water Quality Plan will identify measures to move toward standard attainment. We encourage any assistance or support from CRITFC and/or CRITFC tribes in the development and implementation of water quality improvement measures.

Mainstem TMDL Consultation and Coordination Efforts

EPA recognizes its unique legal relationship with Tribal governments as set forth in the U.S. Constitution, treaties, statutes, executive orders, and court decisions. Federal policies instruct EPA to have regular and meaningful consultation with Indian Tribal governments when developing policies and regulatory decisions on matters affecting their communities and resources. EPA Region 10 has made specific commitments on how we will consult and coordinate with Indian tribal governments in the U. S. EPA Region 10 Tribal Consultation Framework, a copy of which is attached to this letter. EPA has the goal of trying to achieve consensus before a final EPA decision is made. It is our hope that the tribal coordination and consultation EPA is undertaking for its actions and decisions on the mainstem Columbia and Snake River TMDLs will build on our efforts to date.

A government-to-government dialogue with Columbia Basin Tribes and EPA was held on the TMDL work effort in Spokane, Washington, March 2000. Since that time, EPA has invited tribal staff to participate in monthly TMDL coordination meetings of the agency staffs who are working on the various TMDL efforts. EPA has provided a small grant to the National Fish and Wildlife Foundation to help support tribal coordination and consultation for the 14 Columbia Basin Tribes. This grant supported a meeting sponsored by CRITFC that was held on the Warm Springs Indian Reservation in September 2001.

Other forums for tribal staff and tribal policy discussions are currently being planned with tribal staff input. Because these five TMDL efforts reach across three states, affect 14 tribes, and involve several federal agencies, EPA Region 10 would like to establish a specific plan to guide our consultation efforts in the future. We have prepared an initial draft strategy for distribution to the tribes, which we would like to use as a starting point for discussing an appropriate plan for involving the tribes. The views and perspectives of CRITFC and the CRITFC tribes on this strategy would very helpful.

In conclusion, EPA is committed to establish the appropriate dialogue and two-way communication with tribal governments on this Columbia River water quality improvement effort. If you have any further questions or concerns regarding the mainstem Columbia and Snake River TMDLs please do not hesitate to call me directly at (206) 553-1234 or Mary Lou Soscia at (503) 326-5873.

Sincerely,

L. John Iani
Regional Administrator

Attachments:

1. Draft EPA Strategy for Consultation and Coordination with Indian Tribal Governments for Completing Mainstem Columbia River and Snake River TMDLs, January 2002.
2. U. S. Environmental Protection Agency- Region 10 Tribal Consultation Framework, July 16, 2001.
3. U.S. Environmental Protection Agency, Region 10 - "An Outline of a Monitoring Program for Estimating the State of Water Temperature in the Columbia and Snake River," April 2001.